

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAN MCCONCHIE, in his official capacity as)
Minority Leader of the Illinois Senate and)
individually as a registered voter, and JIM)
DURKIN, in his official capacity as Minority)
Leader of the Illinois House of Representatives)
and individually as a registered voter,)

Plaintiffs,)

v.)

Case No. 1:21-CV-03091

ILLINOIS STATE BOARD OF ELECTIONS,)
CHARLES W. SCHOLZ, IAN K.)
LINNABARY, WILLIAM M. MCGUFFAGE,)
WILLIAM J. CADIGAN, KATHERINE S.)
O'BRIEN, LAURA K. DONAHUE,)
CASANDRA B. WATSON, and WILLIAM R.)
HAINE, in their official capacities as members)
of the Illinois State Board of Elections,)
EMANUEL CHRISTOPHER WELCH, in his)
official capacity as Speaker of the Illinois House)
of Representatives, the OFFICE OF SPEAKER)
OF THE ILLINOIS HOUSE OF)
REPRESENTATIVES, DON HARMON, in his)
official capacity as President of the Illinois)
Senate, and the OFFICE OF THE PRESIDENT)
OF THE ILLINOIS SENATE,)

Defendants.)

Circuit Judge Michael B. Brennan
Chief Judge Jon E. DeGuilio
Judge Robert M. Dow, Jr.

Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)

**DEFENDANTS' MOTION TO ADJOURN THE EXPERT DISCOVERY SCHEDULE
AND SET STATUS CONFERENCE FOR SEPTEMBER 1, 2021**

Defendants Emanuel Christopher Welch, in his official capacity as Speaker of the Illinois House of Representatives, the Office of the Speaker of the House of Representatives, Don Harmon, in his official capacity as President of the Illinois Senate, and the Office of the President of the Illinois Senate, by and through their counsel (“Defendants”), hereby move this Court, pursuant to Federal Rules of Civil Procedure 16 and 26, to adjourn the expert discovery schedule. In support of this motion, Defendants rely on the accompanying Memorandum of Law, and further state as follows:

1. The Illinois General Assembly announced on August 20, 2021 that it will reconvene to amend the current redistricting plan, Public Act 102-0010, to incorporate the now-available decennial census data. Plaintiffs allege that the current redistricting plan is unconstitutional because it does not use the decennial census data, and stated to the Panel that their experts will opine specifically on why the non-decennial census data used in the current plan (American Community Survey data (“ACS data”)) is improper. Because the current plan will be amended based on the decennial census data in less than two weeks, the parties’ planned expert reports will opine on subjects that are no longer at issue and analyze a plan that is soon to be out of date.

2. In light of this significant development, Defendants request a brief adjournment until September 1, 2021, which is the day following the General Assembly’s planned special session to amend the redistricting plan. The requested extension is warranted to allow the parties and their experts to analyze how any amended plan impacts their claims and defenses, and to produce expert reports that address only issues that remain disputed or “live” in light of any amended plan. Such an extension avoids the risk of expert reports that are at once over-inclusive (by addressing issues mooted by the amended plan or analyzing an out-of-date plan) and under-inclusive (for not addressing issues that might arise in response to the amended plan).

3. The requested extension will allow the parties to confer regarding how the amended

plan might narrow the scope of this case before they charge ahead with potentially unnecessary expert discovery. For example, an amended redistricting plan based on the decennial census data would moot any claims of deviations between ACS data and the decennial census data. *See, e.g.*, Am. Compl., ECF No. 51 ¶¶ 2, 7.

4. An amended redistricting plan is also likely to impact the related case of *Contreras v. Ill. State Bd. of Elections*, No. 1:21-cv-3139, where the plaintiffs seek relief in the form of an injunction requiring the General Assembly to redraw the plan with the decennial census data, as the General Assembly has now announced it plans to do. The requested adjournment would be beneficial because (i) it would allow Defendants' experts to refine their opinions to focus only on the remaining allegations (or remaining case); while (ii) ensuring the two cases remain on the same schedule.

5. Adjourning expert discovery until the new scope of the case can be assessed serves the interests of efficiency by conserving the parties' and the Panel's resources that might be unnecessary.

6. The requested adjournment does not prejudice any party, or harm any third parties. Even if the trial schedule were impacted, a similarly expedited yet slightly later schedule would still result in an order from the Panel in sufficient time to avoid any impact on the State's primary elections, which are now scheduled for June 2022.

7. Pursuant to Local Rule 37.2 and Judge Dow's rules regarding motion practice, Defendants contacted Plaintiffs regarding their request. On August 20, 2021, Plaintiffs stated that they intend to oppose this Motion.

WHEREFORE, for the reasons set forth above and in the accompanying Memorandum of Law, Defendants respectfully request that the Court adjourn the current expert discovery schedule, and set a status conference for September 1, 2021, the day after the General Assembly

expects to complete any amended redistricting plan.

Dated: August 20, 2021

Respectfully submitted,

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